

CURTIS WHEELER

IBLA 81-222

Decided July 10, 1981

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting appellant's oil and gas lease offers. W 73105, 73116, 73171, and 73172.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: First-Qualified Applicant -- Oil and Gas Leases: Lands Subject To

It is proper for the Bureau of Land Management to reject an oil and gas lease offer filed over the counter for land formerly included in a lease which expired at the end of its term or terminated automatically for nonpayment of rental because under 43 CFR 3112.1-1 such land is subject to the filing of new lease offers only in accordance with simultaneous filing procedures.

2. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Lands Subject to

Land included in an outstanding oil and gas lease, whether the lease is void, voidable, or valid, is not available for leasing and an offer filed for such land must be rejected.

APPEARANCES: Curtis Wheeler, pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Curtis Wheeler appeals from the November 24, 1980, decision of the Wyoming State Office, Bureau of Land Management (BLM), rejecting his oil and gas lease offers, W 73105, 73116, 73171, and 73172.

Appellant filed his noncompetitive oil and gas lease offers over the counter. The offers to lease were subsequently rejected by decision of BLM on the ground that the lands applied for were either subject to outstanding leases extended beyond their primary terms or that they could only be leased under the regulations governing the simultaneous-filing process, 43 CFR Subpart 3112.

The BLM decision recites that the land in appellant's lease offer W 73105 had previously been included in oil and gas lease W 22825-B which expired at the end of its term and was included in the list posted for the November 1980 simultaneous oil and gas drawing. The land in lease offer W 73116 had previously been included in lease W 64337 which expired June 7, 1980, and had not been posted to a simultaneous offer list by the date of the decision. The decision further recites that the lands described in appellant's other lease offers were either embraced in currently outstanding leases or in former leases which had expired.

Appellant contends in his statement of reasons for appeal that a noncompetitive offer to lease takes precedence over the simultaneous filing procedure.

[1] The relevant regulation governing noncompetitive leasing of lands formerly included in oil and gas leases in 43 CFR Subpart 3112 provides in pertinent part:

§ 3112.1-1 Availability of lands.

All lands which are not within a known geological structure of a producing oil or gas field and are covered by canceled or relinquished leases, leases which automatically terminate for non-payment of rental pursuant to 30 U.S.C. 188, or leases which expire by operation of law at the end of their primary or extended terms are subject to leasing only in accordance with this subpart.

Pursuant to 43 CFR 3112.1-1, all lands covered by leases which expire by operation of law at the end of their term shall be subject to the filing of new lease offers only in accordance with simultaneous filing procedures. Thus, it was proper for the Bureau of Land Management to reject an over-the-counter offer for an oil and gas lease of land formerly included in a lease which expired by operation of law at the end of its term, because land in an expired lease is subject to the filing of new noncompetitive lease offers only in accordance with simultaneous filing procedures. Thor-Westcliffe Development Inc. v. Udall,

314 F.2d 257 (D.C. Cir. 1963), cert. denied, 373 U.S. 951 (1963); Martha M. Findeiss, 50 IBLA 359 (1980); David A. Provinse, 35 IBLA 217 (1978).

[2] With regard to appellant's offer for lands embraced in outstanding leases the Board has repeatedly held that to the extent an offer to lease embraces lands presently under lease the offer is properly rejected regardless of whether the lease is void, voidable, or valid. David A. Provinse, 45 IBLA 111 (1980).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Edward W. Stuebing
Administrative Judge